

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BOARD OF TRUSTEES OF THE WEST
MICHIGAN PLUMBERS, FITTERS &
SERVICE TRADE PENSION PLAN, et al,

Plaintiffs,

Case No. 1:07-CV-68

v.

Hon. Hugh W. Brenneman, Jr.

ALTERNATIVE MECHANICAL, LLC,

Defendant.

ORDER GRANTING MOTION TO COMPEL

Plaintiffs have filed a motion to compel responses to certain discovery requests, and to extend plaintiffs' discovery period, due to defendant's failure to respond to their discovery requests. Defendant apparently did provide responses to the discovery requests the day preceding the motion on the hearing. The parties have not had an opportunity to confer on those responses.

For the reasons more fully stated on the record at the hearing held this date, plaintiffs' motion (docket no. 18) is GRANTED, and defendant shall provide full and complete responses to all discovery requests it has not already responded to. By failing to make any timely objections to the discovery requests (in this instance, by December 17, 2007), defendant has waived any objection it normally could have made. Of course, if it is simply unable to provide the information sought because, e.g., the information does not exist, it is free to point that out in an appropriate manner. Plaintiffs, on the other hand, are free to file a further motion to compel responses if they are not

satisfied with the ones they receive, provided they comply with the meet-and-confer requirements as to each item of discovery beforehand.

Due to defendant's delay in providing the discovery sought by the present motion, plaintiffs' period of discovery shall be extended to **February 29, 2008**.

Further, plaintiffs are entitled to reasonable costs and attorneys fees necessarily incurred in bringing this motion, such amount to be agreed upon by the parties. In the event the parties do not agree upon such an amount within ten days from the date of this order, plaintiffs shall, within fourteen days of the date of this order, provide the court with an affidavit and supporting documents justifying the costs incurred in bringing and arguing this motion. Defendant shall have fourteen days thereafter to respond in a similar fashion. The court will thereupon resolve the matter upon the papers filed, but reserves the right to schedule a further hearing if necessary.

IT IS SO ORDERED.

Dated: February 1, 2008

/s/ Hugh W. Brenneman, Jr.
HUGH W. BRENNEMAN, JR.
United States Magistrate Judge